IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 2553 of 2005
Date of Decision: August 29, 2006

Santosh Kumari and others .....Petitioners

versus

Sudesh Kumar .....Respondent

Present:- Shri Surinder Sharma, Advocate, for the petitioner

Shri Puneet Jindal, Advocate, for the respondent

HEMANT GUPTA, J.

The challenge in the present revision petitioner is to the order passed by the learned Executing Court on 28.03.2005 whereby an application for setting aside of ex parte execution proceedings against the petitioner was dismissed.

It is the case of the petitioner that she has not engaged any counsel for the execution petition and that eviction order has been passed against a dead person and, therefore, eviction order cannot be passed against her. It was stated by the petitioner that an application for setting aside of ex parte eviction order dated 1.3.2001 is pending consideration before the competent court.

Since the eviction order has been passed against the petitioner, the argument sought to be raised by the learned counsel for the petitioner that she has not engaged any counsel in execution is not relevant as decree

of eviction has yet not been set aside. Therefore, the said argument is not tenable. The argument that the decree is against a dead person is an argument which is required to be considered by the competent Court of jurisdiction at all at this stage.

Consequently, I do not find any patent illegality or material irregularity in the order passed by the trial Court on 28.03.2005 warranting interference by this Court in exercise of its revisional jurisdiction under Article 227 of the Constitution.

Dismissed. However, it shall be open to the petitioner to seek its appropriate remedy in proceedings for setting aside ex parte eviction order or in any other proceedings.

August 29, 2006 (HEMANT GUPTA)
ks JUDGE